IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1142 OF 2004

Essar Investments Ltd. ..Petitioner
Vs.
KSL and Industries Ltd.
and Ors. ..Respondents
...
Mr.V.M.Thorat i/b M/s. Shukla & Shukla for
M.Sharma for Petitioner
M/s. Paras Kuhad and Associates
for Respondent no.1
Mr.V.B.Konde-Deshmukh A.P.P. for the State
...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 19,2005

P.C.

1. Heard the learned advocate for the Petitioners, learned advocate for the respondent no.1-original complainant and learned A.P.P. for the State.

2. The petitioners have produced Demand Draft bearing No.611428 dated 17.8.2005 for Rs.2,28,77,731/- drawn on ABN-Amro Bank dated 17.8.2005 drawn in the name of respondent no.1-original complainant and it is stated that the said amount is in respect of the interest computed @ 28%. However, the learned advocate for respondent no.1-original complainant states that

complainant is not willing to accept the said demand draft and will proceed on merits of the matter. The xerox copy of the said demand draft is taken on record and marked ‘X’ for identification.

3. The petitioners are seeking quashing of proceedings relating to Criminal Case Nos.3014/S/2002 and 3392/S/2002 which are pending before the learned Addl.C.M.M. at Bhoiwada, Dadar, Mumbai. In the said cases, process has been issued against the petitioners under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioners submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the petitioners is set aside, the proceedings in respect of the petitioners would come to an end.

4. However, for the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the petitioners have an efficacious remedy of preferring revision

against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the petitioners to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioners makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks. The learned advocate for the respondent no.1-complainant fairly states that no objection will be raised in respect of delay in filing the revision.

6. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

7. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]